

Order

Michigan Supreme Court
Lansing, Michigan

April 23, 2008

Clifford W. Taylor,
Chief Justice

135689

Michael F. Cavanagh
Elizabeth A. Weaver
Marilyn Kelly
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman,
Justices

BONNIE PATTERSON,
Plaintiff-Appellee,

v

SC: 135689
COA: 278823
WCAC: 06-000093

DELPHI CORPORATION,
Defendant-Appellant.

On order of the Court, the application for leave to appeal the January 7, 2008 order of the Court of Appeals is considered and, pursuant to MCR 7.302(G)(1), in lieu of granting leave to appeal, we REMAND this case to the Court of Appeals for consideration as on leave granted. On remand, the Court of Appeals shall consider whether the Worker's Compensation Appellate Commission (WCAC) majority committed legal error by applying the wrong standard of proof, and if so, whether this error was nonetheless harmless. MCL 418.851 provides that "[a] claimant shall prove his or her entitlement to compensation and benefits under this act by a preponderance of the evidence." The Court of Appeals shall determine whether the WCAC evaluated the evidence from the perspective that, once a magistrate has determined that a claimant is suffering from a work-related disability for any period, the claimant remains entitled to worker's compensation benefits absent direct proof of recovery from that disability; if so, this would not describe the correct standard of proof. Simply because a claimant meets the burden of proof for one period does not mean that he or she necessarily meets that burden for all periods until proven otherwise. Rather, the claimant has the burden at all times of proving his or her entitlement to benefits by a preponderance of the evidence.



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I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

April 23, 2008

Corbin R. Davis

Clerk